IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 9TH FEBRUARY 2007 / 20TH MAGHA 1928

OP.No. 25421 of 2000(B)

PETITIONER:

MR.P.N. KRISHNAKUMAR,
S/O. SHRI P.K. NANU EZHUTHACHAN
PLOT NO.177, HILL GARDENS, KUTTANELLUR,
TRICHUR.

BY ADV. SRI.C.K.KARUNAKARAN
SRI.J.JIOTHIS KIRAN

RESPONDENTS:
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1. **THE ASSISTANT EXCISE COMMISSIONER,**
   TRICHUR.

2. **THE CIRCLE INSPECTOR OF EXCISE,**
   IRINJALAKUDA.

3. **THE TAHSILDAR (RR), TRICHUR 20.**

4. **SHRI.V.P.GEORGE, S/O.SHRI PAILY,**
   VAZHAKALYIL HOUSE,
   KOMPANAD VILLAGE,
   KUNNATHUNADU TALUK,
   ERNAKULAM DISTRICT.

BY GOVERNMENT PLEADER SMT.K.MEERA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 09/02/2007, ALONG WITH OP NO. 34521 OF 2000 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.42821/2000 IN OP. 25421/2000

DISMISSED

9.02.2007 **SD/- C.N.RAMACHANDRAN NAIR, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE JUDGMENT DT.13.7.95 IN OP. NO.6458/95.

EXT.P2:- COPY OF THE STATEMENT SHOWING THE PRINCIPAL DUE AS ON 1.4.90 ISSUED BY THE 2ND RESPONDENT.

EXT.P3:- COPY OF THE RECEIPTS ISSUED BY THE 3RD RESPONDENT FOR PAYMENTS MADE BY THE PETITIONER.

EXT.P4:- COPY OF THE SRO 486/2000 NOTIFIED AS G.O.(P) NO.88/2000 DT.2.6.2000.

EXT.P5:- COPY OF THE 1ST RESPONDENT'S REPLY LETTER NO.6-4318/90 DT.19.8.2000.

EXT.P6:- COPY OF THE LETTER NO.RR/4217/2000/MCR DT.24.5.2000 ISSUED FROM THE OFFICE OF THE HONOURABLE MINISTER FOR REVENUE.

EXT.P7:- COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DT.29..82000.

EXT.P8:- COPY OF THE MAHAZAR DT.22.2.01 ATTACHING MOVABLE ASSETS.

EXT.P9:- COPY OF THE 'KATCHEET' DT.22.2.01.

EXT.P10:- COPY OF THE R.R. NOTICE NO.1141/90 DT. NIL ISSUED BY THE 2ND RESPONDENT.

EXT.R1(a):- COPY OF THE DCB STATEMENT DT.30.9.2000.

/TRUE COPY/

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C.N.RAMACHANDRAN NAIR, J.

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O.P. Nos.25421 & 34521 of 2000

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Dated this the 9th day of February, 2007.

JUDGMENT

The petitioner in O.P. 25421/2000 and 4th respondent therein who is the petitioner in the other O.P. were joint licencees for running toddy shops in Chalakkudy Range during 1989-90. Reference to parties made in this judgment is as in O.P. 25421/2000. The petitioner is in arrears of kist of Rs.3,72,500/-. Since there was delay in payment, interest accrued. Even though a total payment of Rs.6,82,026/- was made by the petitioners, substantial portion of the amount paid is adjusted towards interest leaving a substantial balance of Rs.3,05,544/- towards kist alone. Even though petitioner applied for amnesty benefit under Government Order and the same was granted leading to a net liability of Rs.3,07,836/-, the petitioner did not make payment and hence revenue recovery was initiated against which this O.P. is filed. The contention raised is discharge of liability which is not true because the detailed statement of liability filed along with the counter affidavit prove otherwise. So far as petitioner's claim that 4th respondent has to pay 50% is concerned, there is no scope for interference because both are jointly and severally liable and it is for them to settle

dispute if any among them on sharing of liability. Therefore, O.Ps. are devoid of any merit and are only liable to be dismissed. However, since the original liability of kist is Rs.3,05,544/- and petitioner and 4th respondent has remitted Rs.6,82,026/-, I feel the amnesty benefit granted earlier can be extended to the petitioner without future interest if petitioner or the 4th respondent or both of them together remit the balance arrears under amnesty scheme already granted atleast by 31.3.2007. In other words, if petitioner and 4th respondent or either of them pay Rs.3,07,836/- without any further interest and collection charges on or before 31.3.2007, the respondents will treat the payment as full and final settlement of liability under amnesty scheme and in that event, no interest should be charged for delayed payment of the said amount.

C.N.RAMACHANDRAN NAIR
Judge

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